

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2005.

Emergency Preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Part A

Sec. A-1. Supplemental appropriations and allocations. There are appropriated and allocated from various funds for the fiscal year ending June 30, 2005, to the departments listed, the following sums.

Part B

Sec. B-1. Appropriations and allocations. There are appropriated and allocated from the various funds for the fiscal year ending June 30, 2005, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

Part C

Sec. C-1. Health Reform Reserve Fund; lapsed balances. Notwithstanding any other provision of law, \$374,368 of the unencumbered balance forward in fiscal year 2003-04 in the Health Reform Reserve Fund account in the Department of Administrative and Financial Services lapses to the General Fund in fiscal year 2004-05.

Sec. C-2 Salary Plan; lapsed balances. Notwithstanding any other provision of law, \$201,698 from the General Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services lapses to the General Fund on June 30, 2005.

Sec. C-3. Calculation and Transfer. Notwithstanding any other provision of law, the State Budget Officer shall calculate and transfer the amount of allocation in Part A, section 1 that applies against each Other Special Revenue Fund account for the affected departments and agencies as an offset to previous statewide measures enacted in PL 2003, chapter 20, Part B that deallocated funds from savings in the cost of health insurance, increased attrition, extending the amortization schedule of the unfunded liability and postponing merit increases and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to allocations in fiscal year 2004-05. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts no later than November 15, 2005.

Sec. C-4 Limit on transfers to circuit breaker reserve. Amends PL 2003, section BB-3, as follows: Notwithstanding the Maine Revised Statutes, Title 36, section 6203 –A, the State Tax Assessor may certify transfers to the circuit breaker reserve up to and not to exceed a total of \$24,742,857–\$26,777,647 in fiscal year 2004-05.

Sec. C-5 Transfer of Excess Equity Retiree Health Insurance. Notwithstanding any other provision of law, the State Controller shall transfer any excess equity of the Retiree Health Insurance Fund associated with General Fund contributions not previously identified for transfer, Other Special Revenue Fund contributions and Enterprise Fund contributions to the General Fund Compensation and Benefit Plan account within the Department of Administrative and Financial Services. Sixty percent in excess equity associated with the Highway Fund shall be transferred to the Highway Fund Compensation and Benefit Plan account within the Department of Administrative and Financial Services and the remaining forty percent transferred to the Highway Fund as unallocated surplus. Any other excess equity shall be transferred to the fund or entity of origin by June 30, 2005.

Sec. C-6. Department of Administrative and Financial Services; lease-purchase authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Office of the Chief Information Officer, Department of Administrative and Financial Services may enter into financing arrangements in fiscal years 2004-05, 2005-06 and

2006-07 for the acquisition of a statewide accounting and purchasing system including software, hardware and peripherals, and contractual services associated with the implementation and deployment of the system. The financing agreements may not exceed \$10,000,000 in principal costs, and no financing arrangement may exceed 5 years in duration. The interest rate may not exceed 7%. The annual principal and interest costs must be paid from the appropriate line category allocations in the Information Services account.

Part D

Sec. D-1. Transfer from unappropriated surplus at close of fiscal year 2004-05. Notwithstanding any other provision of law, at the close of fiscal year 2004-05 the State Controller shall transfer up to \$8,122,000 available from the unappropriated surplus of the General Fund to the Baxter Compensation Authority account in the General Fund after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the next priority after the transfers required pursuant to the Maine Revised Statutes, Title 5, sections 1507, 1511, 1513, 1517 and 1519.

Sec. D-2. Purpose. Transfers made to the Baxter Compensation Authority must be expended for claims of former students of the Governor Baxter School for the Deaf and the Maine School for the Deaf.

Sec. D-3. Transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the amount transferred is considered an adjustment to appropriations in fiscal year 2005-06. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor.

Part E

Sec. E-1. Maine Micro-Enterprise Initiative Fund. Notwithstanding any other provision of law, \$315,000 of the unencumbered balance forward in fiscal year 2003-04 in the Maine Micro-Enterprise Initiative Fund account in the Department of Economic and Community Development lapses to the General Fund in fiscal year 2004-05.

Part F

Sec. F-1. Transfer of funds. Notwithstanding any other provision of law, the State Controller shall transfer \$2,258,474 from the General Purpose Aid for Local Schools account to the unappropriated surplus of the General Fund on or before June 30, 2005.

Part G

Sec. G-1. Working capital advance. The State Controller is authorized to immediately advance \$108,000 from the General Fund unappropriated surplus to the Maine National Guard Education Assistance Pilot Program, Other Special Revenue Fund account within the Department of Defense, Veterans and Emergency Management to provide cash necessary for current expenditures of the tuition assistance program. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval by the Governor. These funds must be returned to the General Fund unappropriated surplus on or before June 30, 2006. The State Controller shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs within 30 days of making any working capital advance for this purpose.

Sec. G-2. Transfer of Buildings and Property Located at the Former Loring Air Force Base. Notwithstanding any other provision of law, the Department of Administrative and Financial Services is authorized to acquire up to ten buildings, appurtenant real estate, and other interests in real property at the Loring Air Force Base in Limestone, Maine from the Loring Development Authority on such terms and conditions as are deemed to be in the best interest of the State of Maine by the Commissioner of Department of Administrative and Financial Services. The land, rights and buildings so acquired shall be sufficient to support the current and future operations of the Maine Military Authority and other tenants of the property.

Oversight and management of such facilities shall be delegated to the Bureau of General Services, which shall have authority to negotiate and enter into such leases as are most conducive to operations of the Maine Military Authority and such other tenants as are deemed suitable by the Bureau of General Services. Current leases and contracts relating to the facilities or services rendered at the facilities shall be assigned to the Bureau of General Services.

The Commissioner of the Department of Administrative and Financial Services shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 30, 2006 on the terms of transfer, and the terms and conditions of the Bureau of General Services' oversight and management of the facility.

Sec. G-3. Unexpended funds. The Department of Defense, Veterans and Emergency Management is authorized to expend \$337,949 of unencumbered funds in the State matching Disaster Assistance – MEMA account from closeouts of previous federally-funded disasters and to make those funds available to be used as State matching funds to eligible municipalities as required under the Federal-State Agreement to administer current disaster FEMA-1508-DR. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval by the Governor.

Part H

Sec. H-1. Child Welfare Services; lapsed balances. Notwithstanding any other provision of law, \$240,137 of the unencumbered balance in fiscal year 2004-05 in the Child Welfare Services General Fund account in the Department of Health and Human Services lapses to the General Fund in fiscal year 2004-05.

Sec. H-2. Disproportionate Share-Bangor Mental Health Institute; lapsed balances. Notwithstanding any other provision of law, \$130,874 of the unencumbered balance in fiscal year 2004-05 in the Disproportionate Share-Bangor Mental Health Institute account in the Department of Health and Human Services lapses to the General Fund in fiscal year 2004-05.

Sec. H- 3 Settlement proceeds. Notwithstanding any other provision of law, the State Controller is authorized to recognize as General Fund undedicated revenue, no later than June 30, 2005, \$1,276,356 from the Medical Care Services General Fund account in the Department of Health and Human Services representing legal settlements from pharmaceutical companies.

Sec. H- 4. Audit settlement. Notwithstanding any other provision of law, the State Controller is authorized to recognize as General Fund undedicated revenue, no later than June 30, 2005, \$235,890 from the BDS Department Operations General Fund account in the Department of Health and Human Services representing the final settlement of fiscal year 2001-02 payments from an institute for mental disease.

Part I

Sec. I- 1. PL 2003, c. 51, Pt. H, §7, as amended by PL 2003, c. 451, Pt. P, §4, and PL 2003, c. 513, Part I, §1 is further amended to read:

Sec. H-7. Intergovernmental transfer. The Commissioner of Administrative and Financial Services shall ~~annually~~ establish the amount that must be transferred from the City of Portland as an intergovernmental transfer. The amounts that must be transferred to the State as undedicated General Fund revenue from the City of Portland must be \$1,000,000 in fiscal year 2002-03 and must be at least \$3,254,528 in fiscal year 2003-04 and at least \$2,544,709 in fiscal year 2004-05.

Part J

Sec. J-1. 35-A MRSA, § 116, sub-§8, paragraph C-1, as amended by PL 2003, c. 272, §2 is further amended to read:

C-1. Except as specified in this subsection, funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years; but, with the exception of funds carried forward from fiscal year ~~2002-03~~ 2004-05 and fiscal year ~~2003-04~~ 2005-06 for use in the following fiscal year, unexpended funds in excess of 10% of the total annual assessment authorized in this section must, at the option of the Public Advocate, either be presented to the Legislature in accordance with paragraph A for reallocation and expenditure or used to reduce the utility assessment in the following fiscal year. In the case of funds carried forward from fiscal year ~~2002-03~~ 2004-05 and fiscal year ~~2003-04~~ 2005-06 for use in the following fiscal year, 100% of these funds may be expended for the purposes specified in this section.

Part K

Sec. K-1 Carrying Account – Inland Fisheries and Wildlife. On or before June 30, 2005, the State Controller shall transfer \$100,000 from the Carrying Balances - IF&W General Fund account to the Licensing and Registration General Fund account in the Department of Inland Fisheries and Wildlife, to support costs associated with the transfer of the MOSES program from MCI to the Bureau of Information Services within the Department of Administrative and Financial Services.

Sec.K-2. Savings Fund – Inland Fisheries and Wildlife. On or before June 30, 2005, the State Controller shall transfer \$248,501 from the unappropriated surplus of the General Fund to the Savings Fund General Fund account within the Department of Inland Fisheries and Wildlife.

PART L

Sec. L-1. 5 MRSA, §1541, sub-§3 as amended by PL 1979, c. 312, §2 is further amended to read:

3. Audit. To audit and approve bills, invoices, accounts, payrolls and all other evidences of claims, demands or charges against the State Government; and to determine the regularity, legality and correctness of such claims, demands or charges. The State Controller may elect to audit electronically based systems for adequate safeguards and procedural controls; **Notwithstanding any other provision of law, the State Controller may engage through sole source contracts such auditors, accountants, and investigators as the State Controller deems necessary for special audits, financial audits and investigations, to monitor and ensure adherence to contracts and to ensure proper financial controls.**

PART M

Sec. M-1. 22 MRSA §3174-G, sub-§1, as amended by PL 2001, c. 450, Pt. A, §§1 and 2, and PL 2003, c. 469, PT A, **sub-§ 5** is further amended to read:

1. Delivery of services. The department shall provide for the delivery of federally approved Medicaid services to the following persons:

A. A qualified woman during her pregnancy and up to 60 days following delivery when the woman's family income is equal to or below 200% of the nonfarm income official poverty line;

B. An infant under one year of age when the infant's family income is equal to or below 200% of the nonfarm income official poverty line;

C. ~~A qualified elderly person when the person's family income is equal to or below 100% of the nonfarm income official poverty line and a qualified disabled person when that person's family income is equal to or below 125% of the nonfarm income official poverty line;~~ A qualified elderly or disabled person when the person's family income is equal to or below 100% of the nonfarm income official poverty line;

D. A child one year of age or older and under 19 years of age when the child's family income is equal to or below 200% of the nonfarm income official poverty line;

E. The parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below 200% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph. Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as the income limit does not exceed 200% of the nonfarm income official poverty line; and

F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A to E when the person's family income is below or equal to 125% of the nonfarm

income official poverty line, provided that the commissioner shall adjust the maximum eligibility level in accordance with the requirements of the paragraph.

(1) If the commissioner reasonably anticipates the cost of the program to exceed the budget of the population described in this paragraph, the commissioner shall lower the maximum eligibility level to the extent necessary to provide coverage to as many persons as possible within the program budget.

(2) The commissioner shall give at least 30 days' notice of the proposed change in maximum eligibility level to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

For the purposes of this subsection, the "nonfarm income official poverty line" is that applicable to a family of the size involved, as defined by the federal Department of Health and Human Services and updated annually in the Federal Register under authority of 42 United States Code, Section 9902(2). For purposes of this subsection, "program budget" means the amounts available from both federal and state sources to provide federally approved Medicaid services.

Emergency clause. In view of the emergency cited in this preamble, this Act takes effect immediately.

SUMMARY

This bill does the following.

PART A

Part A makes appropriations and allocations of funds.

PART B

Part B makes appropriations and allocations of funds for approved reclassifications and range changes.

PART C

Part C does the following.

1. It lapses \$374,368 of the unencumbered balance forward in fiscal year 2003-04 in the Health Reform Reserve Fund to the General Fund in fiscal year 2004-05.

2. It lapses \$201,698 in the General Fund Compensation and Benefit Plan account in the Department of Administrative and Financial Services to the General Fund at June 30, 2005.

3. It authorizes the State Budget Officer to calculate and transfer the amount of allocation to affected departments as an offset to previous statewide measures enacted in PL 2003, chapter 20, Part B.

4. It amends the law to increase the limit of transfers to the circuit breaker reserve from up to \$24,742,857 to up to \$26,777,647 in fiscal year 2004-05.

5. It authorizes the State Controller to transfer excess equity of the Retiree Health Insurance Fund not previously identified for transfer.

6. It authorizes the Office of the Chief Information Officer of the Department of Administrative and Financial Services to enter into financing arrangements in fiscal years 2004-05, 2005-06 and 2006-07 for the acquisition of a statewide accounting and purchasing system.

PART D

Part D does the following.

1. It authorizes the State Controller to transfer up to \$8,122,000 available from the unappropriated surplus of the General Fund to the Baxter Compensation Authority account.
2. It specifies that the transfer made to the Baxter Compensation Authority in Sec. D-2 must be expended for claims of former students of Governor Baxter School for the Deaf and Maine School for the Deaf.
3. It specifies that the transfer made to the Baxter Compensation Authority in Sec. D-2 is considered an adjustment to appropriations in fiscal year 2005-06, and authorizes the allotment of the funds by financial order.

PART E

Part E lapses \$315,000 of the unencumbered balance forward in fiscal year 2003-04 in the Maine Micro-Enterprise Initiative Fund account in the Department of Economic and Community Development to the General Fund in fiscal year 2004-05.

PART F

Part F authorizes the State Controller to transfer \$2,258,474 from the General Purpose Aid for Local Schools account to the unappropriated surplus of the General Fund on or before June 30, 2005.

PART G

Part G does the following.

1. It authorizes the State Controller to advance \$108,000 from the General Fund unappropriated surplus to the Maine National Guard Education Assistance Pilot Program, Other Special Revenue Fund account within the Department of Defense, Veterans and Emergency Management to provide cash necessary for current expenditures of the tuition assistance program, and specifies that the funds must be returned to the General Fund unappropriated surplus on or before June 30, 2006.
2. It authorizes the Department of Administrative and Financial Services to acquire up to ten buildings, appurtenant real estate, and other interests in real property at the Loring Air Force Base in Limestone, Maine from the Loring Development Authority, and identifies responsibility for oversight and management of the facilities.

3. It authorizes the Department of Defense, Veterans and Emergency Management to expend \$337,949 of the unencumbered balance in the State matching Disaster Assistance – MEMA account to administer current disaster FEMA-1508-DR.

PART H

Part H does the following.

1. It lapses \$240,137 of the unencumbered balance in fiscal year 2004-05 in the Child Welfare Services General Fund account in the Department of Health and Human Services to the General Fund in fiscal year 2004-05.

2. It lapses \$130,874 of the unencumbered balance in fiscal year 2004-05 in the Disproportionate Share-Bangor Mental Health Institute account in the Department of Health and Human Services to the General Fund in fiscal year 2004-05.

3. It authorizes the State Controller to recognize as General Fund undedicated revenue, no later than June 30, 2005, \$1,276,356 from the Medical Care Services General Fund account in the Department of Health and Human Services representing legal settlements from pharmaceutical companies.

4. It authorizes the State Controller to recognize as General Fund undedicated revenue, no later than June 30, 2005, \$235,890 from the BDS Department Operations General Fund account in the Department of Health and Human Services representing the final settlement of fiscal year 2001-02 payments from an institute for mental disease.

PART I

Part I amends the law relating to the intergovernmental transfer of funds from the City of Portland.

PART J

Part J amends the current provisions and authorizes the Office of the Public Advocate to expend 100% of any funds carried forward from fiscal year 2004-05 and 2005-06 for its intended purpose.

PART K

Part K does the following.

1. It authorizes the State Controller to transfer \$100,000 from the Carrying Balances – IF&W General Fund account to the Licensing and Registration General Fund account in the Department of Inland Fisheries and Wildlife, to support costs associated with the transfer of the MOSES program from MCI to the Bureau of Information Services within the Department of Administrative and Financial Services.
2. It authorizes the State Controller to transfer \$248,501 from the unappropriated surplus of the General Fund to the Savings Fund General Fund account in the Department of Inland Fisheries and Wildlife.

PART L

Part L authorizes the State Controller to engage through sole source contracts such auditors, accountants, and investigators as the State Controller deems necessary for special audits, financial audits and investigations, to monitor and ensure adherence to contracts and to ensure for proper financial controls.

PART M

Part M maintains current Medicaid eligibility criteria for disabled persons, which requires the person's income to be equal to or below 100% of the poverty line.